IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9565 OF 2004

Shri. Sahebrao Vishnu Kunjir ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. Uday Warunjikar for Petitioner.

Mrs. S.S. Bhende, A.G.P. for Respondents.

CORAM : F.I. REBELLO &
MRS ROSHAN DALVI.JJ.
DATED : DECEMBER 21, 2005

P.C.

. Rule. Heard forthwith.

. The Petitioner was appointed against the post of Peon by order dated 1.1.1998. It is the case of the Petitioners that due procedure was followed in the matter of his appointment. As the respondent failed to grant approval to his appointment, Petitioner preferred petition before this court being Writ Petition No. 9405 of 2003 which was disposed of by this court by order dated 15.6.2004 and making rule absolute in terms of Prayer clause (a) of that petition with further direction to decide the matter within three months from the date

of receipt of the order. It appears that on 12.7.2004 the State Government issued G.R. by which the same scheme as for Shikshan Sevak was also made applicable to the post of Peon and Clerk. On remand the respondent authorities have considering this G.R. granted approval to the Petitioner based on the G.R. of 12.7.2004. On account of this , the Petitioner has approached this court by the present petition.

. Consequent to the Judgment of this court, the approval of the Petitioner has to be considered based on whether his first appointment was regular. G.R. of 12.7.2004 would be inapplicable more so after the judgment of this court in the petition which was filed in the year 2003. It is only in the event the Petitioner was not eligible for consideration prior to coming into force of the G.R. dated 12.7.2004 could the respondent authority consider the G.R. of 12.7.2004.

. The action of the authorities therefore is totally without jurisdiction and consequently is

set aside and the matter is remanded back to the Deputy Director of Education Nashik for considering the Petitioner's application for approval based on his first appointment and in terms of what we have said in the judgement. The entire exercise to be completed within three months from today. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)

(MRS. ROSHAN DALVI,J.)